

REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Applicants reiterate their claim to priority from a Provisional application filed May 30, 2001. This claim was recited in the Oath/Declaration submitted on the filing date of the above-identified ordinary application. Applicants have inserted the appropriate language under Cross References To Related Applications. The Examiner is requested to acknowledge such benefit.

Claims 1-7 were Provisionally rejected for obviousness-type double patenting over claims 1-15 of co-pending application S/N 10/022,457.

Applicants herewith submit a Terminal Disclaimer which is believed will overcome this rejection.

Claims 1-7 were also Provisionally rejected for obviousness-type double patenting over claims 1-7 of co-pending application S/N 10/370,855.

Applicants herewith also provide a Terminal Disclaimer over this application.

The use of the trademarks "D-squame" and "Flexcon" were criticized as not appearing in capital letters in the specification. Applicants have amended the specification to capitalize these words.

Claims 4-7 were rejected under 35 U.S.C. § 112, second paragraph. These claims were said to omit steps between those of (B) and (C). The Examiner considered there was no definition in the claims or specification as to when the adhesive strip is to be applied. Clarification was requested.

Anti-aging cosmetic treatments are not instantaneously effective. They require time to operate on the skin. This is measured in weeks not hours or days. Both those skilled in the art and the laymen know this quite well. Measurement with the strip can occur directly after rub-in of the cosmetic product, hours later or even days later.

After a treatment period of time, such as four weeks, another imprint is taken. This procedure can then be repeated at six or eight weeks or at any further time interval. Applicants' specification has outlined this in paragraph [00017]. Exact timing in placement of the strip against the skin is not crucial. For this reason, the specification is considered to be sufficiently definitive and the claims fully definite.

Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as anticipated by US Patent 5,088,502. Applicants traverse this rejection.

Nowhere in the reference is there a mention of visualizing fine lines and wrinkles. Although the reference mentions that the adhesive layer under pressure conforms to the surface of the sample skin, conformance does not mean any actual imprint of fine lines and wrinkles remain after removal of the strip from the skin. Indeed, US '502 discloses that when the adhesive substrate is pressed against the skin surface, skin

cells adhere to the adhesive layer. It is the transferred dry skin flakes that becomes imaged on a darkened area. See column 2 (lines 28-34 and 56-59).

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent 5,088,502 in view of US Patent 6,270,783. Applicants traverse this rejection.

Both references are deficient in not disclosing a transparent strip having sufficient tack to maintain an imprint of fine lines and wrinkles after removal of the strip from the skin. US '502 discloses that under pressure the adhesive layer conforms to the surface of the sample skin. This is not equivalent to conforming to fine lines and wrinkles. Indeed, the sampling device of US '502 is intended to image dry skin flakes. Visualization of such flakes would obscure any image of fine lines and wrinkles.

Furthermore, the pick up of dry skin flakes indicates that the device of US '502 has insufficient tack to flow into extremely small crevices which often define fine lines and emerging wrinkles.

Still further, applicants view the claim preamble for visualizing fine lines and wrinkles as being an element of the claims. This preamble is intended to give life and meaning to the claims. Neither of the references mentions anything with respect to visualizing fine lines and wrinkles.

Based on all the foregoing reasons, a combination of US '502 in view of US '783 would not render the instant invention obvious.

Claims 4-7 were rejected under 35 U.S.C. § 103(a) as unpatentable over US 5,684,573 in view of US Patent 5,088,502. Applicants traverse this rejection.

There are many cosmetic products sold which advertise anti-aging skin benefits. Consumers usually cannot easily discern whether the claimed benefit is actually delivered. Even if perceivable, these products impart an effect which may emerge only slowly over a period of time. Facial fine lines and wrinkles can be minimized with actives such as alpha hydroxycarboxylic acids and/or retinol, to provide some visible improvement over an extended application period. They don't function instantaneously.

The present invention provides a low-cost simple test for a consumer to self-evaluate a cosmetic product's anti-aging benefits over a prolonged application period. The test has a particular advantage in allowing the consumer to store an imaged strip from an earlier time so that it can be compared to a second image strip imprinted much later. Without good preservation of the former, it would be difficult to have a time dependent comparison. The combination of the transparent strip with imprint not only imaged but preserved by placement against the imaging substrate permits the time dependent comparison.

A major feature of the present invention is not simply to take an imprint of fine lines and wrinkles. Rather there was sought a simple self-evaluation tool for measuring changes over a prolonged application period with respect to fine lines and wrinkles or other aging susceptible parts of the human dermis. Without a mechanism for storing the imprint in an undisturbed state, the first sample would either undergo change or be lost. Applicants identified the need for some sort of a fixative arrangement.

The Examiner has admitted that US '573 does not disclose placing the imprinted sheet on a dark imaging substrate.

US '502 utilizes a transparent adhesive tape to which a black background is affixed. When the adhesive layer 16 is applied to a human body surface, an imprint occurs in the adhesive. This imprint is visualized as a result of a darkened area 14 underlying and attached to adhesive layer 16. Once layer 16 is imaged, there is no disclosure on how to maintain that image for any prolonged period of time. The patterned adhesive is open to the air and subject to attracting dust or other image destroying factors. By contrast, applicants have an adhesive on a transparent strip that is detached from an imaging substrate with a darkened area. Once the strip has been imprinted with fine lines and wrinkles on an adhesive side thereof, that printed side is placed face-to-face to the darkened area of the imaging substrate. Now the imprint is sandwiched between the transparent strip and the dark area of the substrate. Dust, debris or other factors cannot disturb the image.

By contrast, US '502 does not sandwich the adhesive imaged side of layer 16 against the blackened area 14. Adhesive 16 and blackened area 14 are an inseparable integral part of the substrate 12. Thus, any imprinted image is not storable without likely damage for comparison with a second strip imaged many weeks or months later.

Any protection for the adhesive layer 16 provided by protective film 18 occurs prior to use of the test device. Once the protective film 18 has been removed, it is discarded. An imprint of skin can then be taken by the combination of substrate 12 with a dark coloured area 14 bearing an adhesive layer 16. Once the skin imprint is achieved on the surface of 16, there is no mechanism such as a transparent overlayer to cover and preserve that image for a future time.

Accordingly, both of the references are deficient by not disclosing or suggesting that after an imprint is achieved, fixation is needed of the imprint to review at a future time. Neither of the references mentions this problem, provides a solution or is even inherently present.

Dependent claim 5 introduces the concept of applying a dusting powder against the skin prior to placement thereon of the adhesive surface of the strip. Use of a dusting powder significantly enhances the image. The references provide absolutely no disclosure with respect to use of a dusting powder prior to any imaging. The Examiner has failed to present a *prima facie* case of obviousness with respect to claim 5 and the further dependent claims 6 and 7.

The Examiner has argued that the record shows no criticality for using the dusting powder. Applicants submit that any showing of criticality would first require the Examiner to demonstrate a *prima facie* case of obviousness. This has not been shown.

Claims 4-7 were rejected under 35 U.S.C. § 103(a) as unpatentable over GB 2 284 154 in view of US Patent 5,088,502. Applicants traverse this rejection.

As admitted by the Examiner, GB '154 does not teach placing an imprinted adhesive sheet onto a dark imaging substrate. Applicants have found a significant advantage not only of using a dark imaging substrate but also the manner in which an imprint is placed upon that darkened area. In the present invention the imprinted adhesive surface is applied face-to-face against the darkened area of an imaging substrate. By this technique, the image is fixed without fear of dust, debris or other factors altering the image.

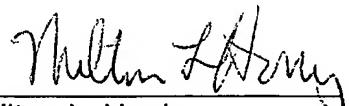
US '502 employs a method where protective film 18 is removed (no adhesive attached) and thrown away. There remains only a single substrate 12 having an adhesive layer and a darkened area. This is a single item. By contrast, applicants do not discard their protective film but instead utilize two materials, one being a strip with adhesive and the other being an imaging substrate with a darkened area. The solution to the permanence problem is solved through the transparent strip and substrate. The combination sandwiches the imprinted adhesive layer between strip and substrate. This is not taught by either of the references and in combination they would not render the instant invention obvious.

Claim 5 is independently patentable. Neither of the references teaches pre-application of a dusting powder against the skin. Use of a dusting powder substantially improves the image. The Examiner has simply not presented a *prima facie* case of obviousness against claim 5. Applicants are under no obligation to provide any showing of unexpected results absent some evidence that dusting powder would have been used in the context of the presently claimed method.

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In view of the foregoing amendment and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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